

IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

SPECIAL CIVIL APPLICATION No 427 of 1992

with

SP. CIVIL APPLICATIONs No 7652/91, 8504/93, 8578/93
and 8725/93

For Approval and Signature:

Hon'ble MR.JUSTICE S.K.KESHOTE

- =====
1. Whether Reporters of Local Papers may be allowed to see the judgements?
 2. To be referred to the Reporter or not?
 3. Whether Their Lordships wish to see the fair copy of the judgement?
 4. Whether this case involves a substantial question of law as to the interpretation of the Constitution of India, 1950 of any Order made thereunder?
 5. Whether it is to be circulated to the Civil Judge?

NAVINCHANDRA HARIRAO MEHTA

Versus

STATE OF GUJARAT

Appearance:

MR BIPIN I MEHTA & MR AR THAKKAR for Petitioners
MR SR DIVETIA & MRS SIDDHI TALATI for Respondents

CORAM : MR.JUSTICE S.K.KESHOTE
Date of decision: 15/08/97

ORAL JUDGEMENT

1. In all these special civil applications, common questions of law are involved, and as such, the same are being taken together for hearing and are decided by this

common order.

2. The petitioners in these petitions are the employees of Nagar Panchayat or Gram Panchayat. Prayer has been made by the petitioners in these special civil applications for direction to the respondents to extend all service benefits to the petitioners which are extended by the respondents to the employees of District cadre and Taluka cadre and employees of converted Nagar Panchayat. The benefits which the petitioners sought are as under:

- (i) House Rent Allowance
- (ii) Pension
- (iii) Leave Travel Concession
- (iv) Encashment of Leave
- (v) Gratuity
- (vi) Benefit of recommendations of 4th Pay Commission
- (vii) Appointment on compassionate ground to the dependent of deceased employees.

3. The counsel for the petitioners contended that the matter is squarely covered by the decision of Apex Court in the case of State of Gujarat vs. R.K. Soni reported in AIR 1984 SC 161 and the decision of this Court given in Sp. C.A. No.1205/78, Halol Nagar Panchayat vs. State of Gujarat decided on 3-5-1983. That decision has been affirmed by the Supreme Court as S.L.P. filed against the same has been dismissed.

4. The learned counsel for the respondents are unable to satisfy that these matters are not covered by the aforesaid two decisions. In R.K. Soni's case (supra), the Apex Court has held that the Panchayat service constituted under sec.203 of the Gujarat Panchayats Act is a Civil Service of the State and members of the service are Government servants. The Apex Court rules out that it is statutory duty of the State Government to make orders for equation of posts and to extend the benefits arising out of the report of the two Pay Commissions. The duties which the members of the Gujarat Panchayat Service are required to perform are in connection with those affairs of the State which are entrusted to the Panchayat Institutions, by the statute itself or by transfer by the Government under the statute. The expenditure towards the pay and allowances of the officers and servants of the Panchayat service, serving for the time being under any Panchayat has, no doubt, to be met by the Panchayat from its own fund, but the fund consists substantially of sums contributed or

lent by the State Government and of the proceeds of any tax or fee imposed by or assigned to the Panchayat under the Act. This Court in the case of Halol Nagar Panchayat (supra) issued following directions:

In view of this concluded legal position, we are of the opinion that the present petition shall have to be allowed and we direct that a writ of mandamus shall issue directing the State Government in the terms in which the writ was issued by the Division Bench of this Court in R.K. Soni's (supra) so as to extend the benefits relating to equation of posts, promotions, fixation of pay-scales and revision thereof on the basis of the recommendations of the Serala and the Desai Pay Commissions. No writ is required to be issued to declare that the Gujarat Panchayat (third amendment) Act of 1978 is unconstitutional being violative of Article 311 and 14 of Constitution of India since it has been so declared by the Supreme Court in State of Gujarat and another vs. Ramalal Keshavlal Soni and other (supra). The State Government shall carry out these directions at the earliest but in no case later than 31st October, 1983. Rule is made absolute accordingly. There will be no order as to costs.

Similar directions are to be issued in the present case also.

5. In the result, all these special civil applications succeed and the same are allowed. The respondent-State is directed in terms in which the writ was issued by the Division Bench of this Court in R.K. Soni's case (supra) so as to extend the benefits relating to equation of posts, promotions, fixations of pay scales and revision thereof on the basis of the Serala and the Desai Pay Commissions. The State Government shall carry out these directions at the earliest but in no case later than 31st January, 1998. Rule is made absolute accordingly.
